

Downtown Commission Meeting
Minutes of July 9, 2010
8:30 a.m.
1st Floor North Conference Room - City Hall

Present: Chairman Dwight Butner, Presiding; Vice-Chair Kitty Love, Councilman Jan Davis, Mr. Guadalupe Chavarria, Mr. Byron Greiner, Mr. Michael McDonough, Ms. Pamela Myers, Mr. Matthew Sprouse and Mr. Jimi Rentz (arrived at 8:45 a.m.).

Absent: Ms. Rebecca Hecht and Mr. Bruce Hazzard

Chairman Butner called the meeting to order at 8:30 p.m. and informed the audience of the public hearing process.

Administrative

- ? Councilman Davis moved to approve the minutes of the June 11, 2010, meeting. This motion was seconded by Mr. Greiner and carried unanimously.

Updates

Downtown Association

Mr. Greiner announced Downtown After Five next Friday and noted that the plans for the Holiday Parade and Oktoberfest are going well.

Pack Square

Ms. Myers was proud to announce all the activity in Pack Square Park.

Downtown Task Force

Urban Planner Alan Glines noted that the Downtown Task Force's regular meetings occur on the Monday after the Downtown Commission meets and he advises them of the Commission's activities. Regarding the new wayfinding signs, there was a request for up-lighting and staff is determining whether they need to modify the lighting ordinance, which prohibits up-lighting.

51 Biltmore Update

Urban Planner Jessica Bernstein said that the developer is moving in a good direction and City Council extended the downtown development agreement until December 31, 2010. She briefly explained a slight change in their plan in that they have eliminated one floor (28 rooms). Staff will be bringing the revised plans back to the Downtown Commission.

Requests for Bench Removal in Central Business District

Neighborhood Coordinator Marsha Stickford said that she has been made aware of two concerns regarding congregations of people around the park benches (in front of Bistros and in front of Mobilia). She has set up a meeting with the Downtown Police Resource Officer and other interested parties on Tuesday, July 20, 2010, at 8:30 a.m. at the benches in front of Mobilia to discuss next steps, which may involve a reconfiguration of the benches. She will keep the Commissioners updated as they try to find a more systematic way to address the issues. Mr. Chavarria wondered if there way a way to regulate people sleeping on the benches and those not fully clothed.

Performing Arts Center Update

Mr. James Baudoin, Director of the Performance Center, said that they are looking at constructing a project on a piece of government property, retaining that property as public property and eventually having the Performing Arts Center project be a public owned building as well. He handed out a summary of the work that has been on-going for the past three months, which has been conducted by their design team, along with the Asheville Design Center and an architectural firm from Boston, Massachusetts. He invited the Commissioners and interested parties to the Grove Arcade on July 28 to review the work of the design team. They believe this will be a kick-off for a three-month process for the community at which time they will solicit input about the Performing Arts Center as well as the surrounding community. He feels this will be a location for mixed-use development which will attract some new business into town to this desirable location.

Mr. Chris Joyell with the Asheville Design Center explained their 2-month expanded site review. He feels they are prepared to roll out to the public in October all three development projects (Performing Arts Center, Mt. Zion and Eagle-Market Street) showing how they can enhance one another.

At the suggestion of Mr. Baudoin, it was the consensus of the Commission to invite Mr. Baudoin back to a Commission meeting for regular updates as they move forward. Chairman Butner was especially interested in seeing what kind of tangible research has been done to attract other business.

Pack Park Permitting and Street Closures

Urban Planners Bernstein and Glines said that Director of Building Safety Robert Griffin has written a draft policy regarding special events within the Central Business District. They would like to schedule a meeting with the downtown community around the week of July 19 and would like to invite the Commissioners to that meeting. Staff also asked the Commissioners to help identify other stakeholders to invite for policy discussion.

Ms. Love and Chairman Butner were concerned that the date was too soon to schedule the meeting, especially in the heart of the season for merchants. Chairman Butner suggested the last weekend in August. Ms. Myers felt the meeting needed to occur sooner rather than later, pointing out a concern about the placement of port-a-johns around Pack Square last weekend (which concern is being investigated by the Parks & Recreation Department).

Ms. Love suggested inviting people who are asking for permits as well as the merchants to this meeting. She also suggested the creation of an interim policy to deal with the more immediate critical issues rather than come up with a policy that will stand for awhile without getting the right kind of broad prospective.

Mr. Greiner suggested the Commissioners be sent the draft policy and also the list of invitees so they can identify other stakeholders who may be interested. Ms. Bernstein said that she will forward the list to the Commissioners early next week, as well as a map of streets with bus routes.

In response to Ms. Myers, Ms. Bernstein said that City co-sponsored events are exempt, e.g., the Bele Chere Festival.

Chairman Butner felt that the Commissioners need to make a commitment to go back to their respective organizations to advise them of this meeting.

After a brief discussion of the date of the meeting, it was the consensus that the meeting be held on Tuesday, July 27, 2010, at 8:30 a.m. at Pack Place.

Downtown Master Plan Implementation

Committee Updates

Mr. Myers said that the Arts & Culture Subcommittee will be meeting on July 27.

Mr. Chavarria and Councilman Davis updated the Commissioners on the Transportation & Parking Subcommittee meeting, with specific emphasis on funding of the 51 Biltmore Avenue Project.

Chairman Butner updated the Commissioners on the Downtown Management Subcommittee. They have reached consensus to do outreach into the community via a survey on the idea of a downtown management entity. Also, the Downtown Association is considering devoting part of their speaker series on this issue.

Arising out of the Urban Design & Development Subcommittee, Mr. McDonough suggested the Downtown Management Committee might want to look at how to facilitate the development, funding and implementation of new open space. He felt there are opportunities to make sure that development and development of open space happens simultaneously with public/private partnerships.

Urban Planner Glines updated the Commissioners on the Urban Design & Development Subcommittee. They are continuing to review the Unified Development Ordinance (UDO) wording amendments with the Planning & Zoning Commission. He noted they have two areas in west Asheville zoned Central Business District. He met with those property owners to let them know that the downtown is likely to get limitations on height and what they should expect. City staff will be taking the west Asheville Central Business District zonings to the Planning & Zoning Commission in the future and recommending taking the height from unlimited to that 75-foot height and allowing a cap-type feature on that. Those property owners were insistent that they would like to see a corridor study and a plan done for Haywood Road specific for them, but maybe for the interim, the 75-foot height might be sufficient.

In response to Chairman Butner, Mr. Glines said that they met with the Planning & Zoning Commission in June and they studied the height issue very carefully. So far they have been fairly receptive to the Downtown Commission's recommendations. Planning & Development Director Judy Daniel said that City staff will keep the Downtown Commission updated by sending them a memo after the Planning & Zoning Commission meetings regarding the UDO wording amendments.

Downtown Inn Variance/Modification Recommendation

Urban Planner Jessica Bernstein said that this is a request for a recommendation regarding a landscape modification and setback variance needed for the Downtown Inn located at 120 Patton Avenue. This project is being reviewed as a Level 1 proposal – which means that modifications typically granted by the Downtown Commission for Level 2 and above projects must be granted by other bodies (Tree Commission and Board of Adjustments). Your recommendation will be presented to these bodies to aid in their review.

The Downtown Inn & Suites is an existing 5-story hotel building located on the south side of Patton Avenue in between Grove Street and Asheland Avenue. The applicant is proposing the construction of a 5-story elevator tower onto the southwest corner of the building for accessibility. The tower is 52' in height and has a footprint of 105 square feet.

The area around any addition to a building is required to be brought into compliance with Article 11 of the Unified Development Ordinance, which in the Central Business District results in upgrades to parking lot landscaping and street trees.

Regarding a setback variance, the existing building was constructed in the 1960s before current standards were in place and is setback approximately 10 feet from Patton Avenue. The elevator tower is proposed on the southwest corner and would have a setback from Patton Avenue approximately 50' feet. Planning staff is recommending approval of the increased setback to the Board of Adjustment.

Regarding landscaping, the parking area was constructed prior to current landscaping standards. However, there is some existing landscaping on the site, including street trees along Patton Avenue, planters within the parking lot along Grove Street and a wall around the parking lot (in place of a planted street buffer). The applicant has agreed to install street trees along Grove Street and that the dumpster screening (currently chain link) be upgraded and improved.

There was a brief discussion about the interior islands being insufficient in size for tree health, along with the type of street trees to be planted on Grove Street.

Mr. McDonough moved to recommend approval of the setback variance to the Board of Adjustment and recommend to the Tree Commission that the applicant fully meets all of the landscape requirements. This motion was seconded by Mr. Sprouse and carried unanimously.

Other Business

Handicapped Parking

City Attorney Bob Oast said that this question arose due a perceived overuse by vehicles displaying handicapped placards in spaces that were otherwise not marked for exclusive use by handicapped vehicles.

He wanted to make sure that everyone understands that we are not talking about spaces that are marked for handicapped vehicles.

In general, what the law permits, is for vehicles displaying handicapped placards to park in any space in the downtown area for an unlimited period of time. For many years Asheville, and many other cities in North Carolina and across the county, have not required vehicles displaying handicapped placards to put money in the meter, like everyone else has to. The law is silent on that. The General Statutes do say that vehicles displaying handicapped placards may park for an unlimited period of time, but it doesn't say anything about either authorizing or prohibiting the charging of a fee for that. Based on research we've done, we have found that the City of Charlotte and the City of Raleigh have clarified their ordinances that vehicles displaying handicapped placards do need to activate the meters. Our parking ordinance was last comprehensively reviewed back in a time that the parking situation in downtown was much different than it is today so it begs for a more comprehensive review. Basically when you park in a designated space you are renting that space for as much time as you can put into the meter. In North Carolina, you need an ordinance establishing the maximum amount of time you can park in a designated area (and we do have some areas like that but there are no meters there). For instance, there is a sign in front of the Civic Center that limits parking in that area for ½ hour. Installing a meter is an option, but you should have an ordinance in place that establishes a maximum amount of time that you can park anywhere in a metered parking zone. We have delegated that responsibility to our Traffic Engineer, but he recommended that that arrangement be re-examined with an eye towards establishing a maximum amount of time for parking in all of downtown, or wherever we have metered parking. It can be established by streets, blocks, or particular zones. Right now the meters that we have in downtown specify several different maximum times – most are 2 hour meters. There are some 3 hour meters, although he believed

the Director of Transportation said they are in parking lots. We also have some 15 and 30-minute meters. The law does make allowances for vehicles that display handicapped placards but this is only as to the time such vehicles can park in those metered spaces. Again, there is no authorization or prohibition regarding the requirement to activate the meters.

The theory behind the ability to regulate on-street parking is to keep traffic moving and to make the spaces available for the people who want to do a stop-and-go at the businesses that are directly adjacent to the parking spaces. We have tried in several ways to free up on-street parking spaces by increasing the fees for on-street parking and made the fee for parking in the parking decks cheaper. All of that has had some effect, but there continues to be the problem of the availability of on-street parking spaces.

He felt we need an ordinance that establishes the maximum amount of time for parking in any on-street parking space and that would thereby require any vehicle who does not display a handicapped placard to move after a certain amount of time, whether that is 15 minutes or 3 hours. That would have the affect of freeing up parking spaces. What we could not do is to require vehicles displaying a handicapped placard to move. We can require those vehicles to activate the meters, but we cannot require them to move. What we could do is, by ordinance, establish an arrangement whereby the other vehicles would have to move every couple of hours.

In summary, he said that if we have an ordinance that establishes a, e.g., 2-hour time limit for parking at a metered space in all of downtown, then every vehicle except vehicles displaying handicapped placards would have to move at least every 2 hours. Under the law we cannot require vehicles displaying handicapped placards to move, but we can require them to activate the meters. He has spoken with the Director of Transportation Ken Putnam and it may be a little bit of an enforcement issue, but it's one that he is willing to explore.

Mr. Greiner explained that the problem is storage of vehicles for weeks at a time with a handicapped placard in a metered parking space. The Downtown Association and the Grove Arcade has done studies showing that there are a lot of residents from Battery Park that store their vehicles for months at a time at a metered space with a handicapped placard and never move their vehicles.

City Attorney Oast said that back in April and May, Mr. Putnam and his staff did a study of the downtown area and they concluded that somewhere around 10% of the approximately 773 downtown parking spaces are occupied by vehicles with handicapped placards. We don't know if they were occupied for long periods of time, but that was their conclusion.

In response to Ms. Myers who wanted to make sure that we have enough marked handicapped spots before we start charging for un-marked ones, City Attorney Oast said that there is an inventory of that, but he didn't know what the number was. He said that in our Americans with Disabilities Act compliance efforts, that number is established and he felt we probably have more than we are required to have. If, or when, we start doing that, that is one of the things we will look at. We would certainly be careful that that was not intruded on.

In response to Mr. McDonough, City Attorney Oast that that we have a certain number of handicapped parking spots that are not metered but may only be used by vehicles displaying handicapped placards. However, if you display a handicapped placard you can park in any space for an unlimited period of time. Our parking enforcement people do not require that the meter be activated, but they can. The law does not prohibit us from requiring that.

Chairman Butner summarized by saying the way the handicapped parking is being enforced downtown is that if you have a handicapped placard, you can park in any space, handicapped designated or not, anywhere in downtown for any duration of time with no financial consequences. That is the essence of the way we are enforcing it now. What the City Attorney is suggesting is that policy would change to where anyone with a handicapped placard could park

anywhere downtown for an unlimited period of time for no charge in designated handicapped parking spaces, but if they parked at a metered parking space then there would be a charge.

To address Mr. Greiner's concern about requiring people that are in a 2-hour parking space to move their car, Chairman Butner suggested that we limit the person having to move their car to every 4 hours.

Ms. Love was concerned that for people to park in one spot for 4 hours was too long and resulted in a loss of turnover spaces for the businesses. She felt it was important to educate the public that the lots are much cheaper than staying at a metered spot for 4 hours. City Attorney Oast said that reaching out to the handicapped community would be a part of that education process.

Mr. Greiner said that one of the points that the Downtown Association has been trying to stress and that is vehicles are being stored for unlimited times in front of businesses for weeks at a time with absolutely no revenue to the City and a loss of those turnover spaces for the businesses. We are not trying to discriminate against handicapped people.

When Mr. Greiner asked if cities that have started charging handicapped parkers in open metered spaces have a maximum limit of how long they can park, City Attorney Oast said that he would research that, but it was his assumption that they do have a maximum time limit.

In response to Chairman Butner, City Attorney Oast said that his recommendation would be that City Council consider an ordinance establishing a maximum time limit for parking in any metered space downtown, other than just how much time you can buy on the meter. He emphasized that one of the points of having metered parking is to require that the spaces be freed up periodically so that other people who have transient business downtown can use those spaces. People who need to store their cars for a day in the downtown area should use off-street parking facilities.

In response to Mr. Sprouse regarding a recommendation that handicapped parking placards that are not in handicapped spaces have to pay the meter, City Attorney Oast said that that doesn't require an ordinance. That has only been a matter of interpretation, but he did think that Asheville needs to have an ordinance establishing a maximum time for metered parking.

Chairman Butner expressed concern if the free handicapped parking spaces are taken up by people storing their cars, it will be impossible to find a free handicapped parking space for other handicapped people who come downtown to shop.

In response to Ms. Love, City Attorney Oast said that right now metered parking is only in effect between 8 a.m. and 6 p.m.

In response to Mr. McDonough, City Attorney Oast said that we have to have handicapped parking spaces, but would research whether we can meter all parking spaces, handicapped or not.

Mr. McDonough felt that if handicapped residents have a concern, then perhaps the City could set up a separate system for them instead of making them feed the meter every 2 hours.

Mr. Joe Minicozzi, Interim Executive Director of the Asheville Downtown Association, said that about 2 years ago they were made aware of this by the Grove Arcade. Apparently residents from the Battery Park were taking the convenient path of storing their cars on the streets. They hired an intern to count cars with handicapped placards, noting that in front of City Hall there was an average of approximately 18 cars that have handicapped placards not in designated handicapped spaces. In looking at the numbers, if there are 700 spaces in downtown and 10% of them are being used by people putting up a handicapped placard and leaving their car all day,

that is a cost to the City of lost revenue of about \$160,000 a year. He urged the Commission to move forward with the Commission advocating that specific recommendations be made.

Planning & Development Director Judy Daniel suggested the Commission consider that if free public parking for the handicapped is reduced, that long-term storage be offered free or substantially reduced on the top decks of parking garages.

When Mr. Chavarria asked if we charge for parking, handicapped or not, would that solve the problem in general, City Attorney Oast said that a recommendation could be that Council direct staff to pursue enforcing the meter activation requirement with respect to vehicles displaying handicapped placards. Regarding the parking time duration, he believed Council delegated that to the Traffic Engineer and those time limit zones are already established by the time displayed on the meter itself.

Mr. McDonough moved to request the City to pursue metering all parking spaces; to enforce collecting fees for parking in all metered parking spaces, whether there is a handicapped placard or not; and that the City initiate efforts to educate the public about the benefits of using off-street parking areas. This motion was seconded by Mr. Chavarria and carried unanimously.

Adjournment

At 10:05 p.m., Mr. Greiner moved to adjourn the meeting. This motion was seconded by Mr. Sprouse and carried unanimously.